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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/056,418   | 01/22/2002  | Todd Campbell        | P895 US             | 8065             |
| 28390  | 7590        | 09/07/2005           | EXAMINER            |                  |
| MEDTRONIC VASCULAR, INC.<br>IP LEGAL DEPARTMENT<br>3576 UNOCAL PLACE<br>SANTA ROSA, CA 95403 |             |                      | NGUYEN, VI X        |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3731                |                  |

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/056,418

|                     |
|---------------------|
| <b>Applicant(s)</b> |
|---------------------|

CAMPBELL, TODD

**Examiner**

**Victor X. Nguyen**

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 34-36 is/are pending in the application.  
4a) Of the above claim(s) 10-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The request filed on 7/26/2005 for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/056418 is acceptable and a RCE has been established. An action on the RCE follows.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Alvarado et al. (6,530,950).

Alvarado et al disclose in fig. 3c, a stent system for implantation in a body lumen including: a stent (10), a plurality of bands (40,42,46) circumferentially wrapped around the stent, the width of the band is substantially less than the diameter of the stent, where the band further comprises a polymer containing a therapeutic agent (see col. 12, lines 53-65), and the band is elastically capable of gripping the stent, and where individual bands of the plurality of bands contain different therapeutic agents (Alvarado et al disclose that the polymer members can include virtually any therapeutic agent i.e., the therapeutic agent comprises anticoagulants, antiplatelet agents and antibacterial agents, see col. 14, lines 7-20). Note that the procedure in figure 3c is capable of having the plurality of bands that are made of different polymers (see col. 13, lines 36-64), and where the band further comprises a first layer (42a is inherently capable of

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forming a layer that is located circumferentially around the stent 10) and a second layer (42b inherent feature), where they are located circumferentially around the stent.

### *Response to Arguments*

3. Applicant's arguments filed 6/17/2005 have been considered but they are not persuasive. In the response to applicant's argument that Alvarado et al reference fails to disclose that individual bands of the plurality of bands contain different therapeutic agents or individual bands of the plurality of bands are made of different polymers and where the band further comprises a first layer and a second layer. The examiner, respectfully, disagrees. As claim 34 is currently written, it can be interpreted broadly that the Alvarado reference at least discloses the use of two different therapeutic agent (i.e., the therapeutic agent comprises anticoagulants, antiplatelet agents and antibacterial agent, see col. 14, lines 7-20 and lines 30-34. Further, As claim 35 is currently written, it can be interpreted broadly that the Alvarado reference at least discloses the use of a variety of different polymers (see col. 13, lines 36-64), and where as best seen in fig. 3c of Alvarado, elements 42a, 42b can be interpreted broadly as a first layer and a second layer. Accordingly, the above noted reference is still considered to read on claims 34-36.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen  
Examiner  
Art Unit 3731

Vn Vn  
9/2/2005



**JULIAN W. WOO**  
**PRIMARY EXAMINER**